

BEFORE THE STATE AUDITOR
AND COMMISSIONER OF INSURANCE
HELENA, MONTANA

IN THE MATTER OF:)	Case No. 2001-53
)	
THE PROPOSED DISCIPLINARY)	Consent Agreement
TREATMENT OF WHEAT GROWERS.)	
FARM MUTUAL INSURANCE)	
COMPANY,)	
)	
Respondent.)	

I.

The Montana Insurance Commissioner (Commissioner), pursuant to the authority of the Insurance Code of Montana, Section 33-1-101, et seq., Mont. Code Ann. (2001), determines that there is reason to believe that the following allegations, if true, justify and support disciplinary treatment.

ALLEGATIONS

1. Wheat Growers Farm Mutual Insurance Company (Wheat Growers) is a Montana domestic farm mutual insurance company.
2. Wheat Growers paid a dividend to its members in 1999 for 1998 profits.
3. Wheat Growers paid a dividend to its members in 2000 for 1999 profits.

CONCLUSIONS

1. The State Auditor is the Commissioner of Insurance pursuant to section 2-15-1903, MCA.
2. Wheat Growers is in violation of section 33-4-407, MCA, for paying dividends to its members.
3. Wheat Growers denies the allegations and denies violating section 33-4-407, MCA.

II.

Wheat Growers stipulates and consents to the following:

- A. To pay a fine of \$5,000;
- B. To comply with the insurance Code of Montana;
- C. To waive the right to a hearing on the allegations.
- D. That Wheat Growers states that it has read the foregoing Consent Agreement, that Wheat Growers knows and fully understands its contents and effect;
- E. Wheat Growers states that it understands that the Consent Agreement is a part of the file, which is a public record. As a public record it may not be sealed; and
- F. It is further understood that this Consent Agreement constitutes the entire agreement between the parties, there being no other promises or agreements, either express or implied.

III.

Pursuant to the stipulation and consent of Wheat Growers, the Commissioner, under the authority of the Insurance Code of Montana and Section 2-4-603, MCA, hereby agrees that if the terms and conditions of this Consent Agreement are fully met, he will not initiate any civil or administrative action against Wheat Growers regarding the allegations contained therein pursuant to Sections 33-1-317 and 33-17-1001, MCA. In consideration for the Commissioner not initiating any civil or administrative action, Wheat Growers fully and forever releases and discharges the Office of the State Auditor and all State Auditor employees from any and all actions, claims, causes of action, demands, or expenses for damages or injuries, whether asserted or unasserted, known or unknown, foreseen or unforeseen, arising out of the above entitled administrative action.

In consideration for the \$5,000 fine and assurances from Wheat Growers that it will comply with the Montana Insurance Code in the future, the Commissioner fully and finally releases Wheat Growers from all claims contained in Case No. 2001-53.

Dated this 1 day of May, 2002.

RESPONDENT

WHEAT GROWERS FARM MUTUAL
By: S. L. Michael
Its: SEC - TELA

Subscribed and Sworn to before me this 1st day of May, 2002.

(SEAL)

Suzanne Cline
Notary Public for the
State of Montana
Residing at Fl. Benton, MT

Kevin F. Phillips
Kevin F. Phillips
Staff Attorney
Department of Insurance

BEFORE THE STATE AUDITOR
AND COMMISSIONER OF INSURANCE
HELENA, MONTANA

IN THE MATTER OF:)	CASE NO. 2001-53
)	
THE PROPOSED DISCIPLINARY)	NOTICE OF PROPOSED AGENCY
TREATMENT OF WHEAT GROWERS)	ACTION AND OPPORTUNITY FOR
FARM MUTUAL INSURANCE)	HEARING (LICENSE DISCIPLINE
COMPANY,)	AND ADMINISTRATIVE FINE)
)	
Respondent.)	
)	
)	

TO: Wheat Growers Farm Mutual Insurance Company
P. O. Box 2346
Great Falls, MT. 59403-2346

PLEASE TAKE NOTICE

Staff of the Insurance Division of the office of the State Auditor and Commissioner of Insurance of the state of Montana (Commissioner), pursuant to the authority of the Insurance Code of Montana, Section 33-1-101, et seq., Montana Code Annotated (1999) (MCA), is proposing to the Commissioner that he take disciplinary action against the entities named above for violations of the Montana Code. The Commissioner has authority to take such action under the provisions of Sections 33-1-317, 33-17-411, 33-17-1001, and 33-17-1002, MCA.

Service of process is pursuant to section 33-1-314, MCA.

REASONS FOR ACTION

There is probable cause to believe that the following facts, if true, justify and support such disciplinary treatment.

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CONCLUSIONS

1. The State Auditor is the Commissioner of Insurance pursuant to section 2-15-1903, MCA.
2. Wheat Growers is in violation of 33-4-407, MCA for paying dividends to it's members.

STATEMENT OF RIGHTS

You are entitled to a hearing and to respond to this notice and present evidence and arguments on all issues involved in this case. You may have a formal hearing before a hearing examiner appointed by the Commissioner. This is provided for by the Montana Administrative Procedure Act, sections 2-4-601, MCA, and following, including Section 2-4-631, MCA. If you demand a hearing, you will be given notice of the time, place and the nature of the hearing. Pursuant to section 33-1-701(2), the hearing shall be held within 30 days after receipt of the demand by the commissioner, unless postponed by mutual consent.

You have a right to be represented by an attorney at any and

1 all stages of this proceeding.

2 If you want to resist the proposed action under the
3 jurisdiction of the Commissioner, you must so advise him within
4 fifteen (15) days of the date you receive this notice. You may
5 so advise him by writing to Kevin Phillips, Insurance Attorney,
6 State Auditor's Office, 840 Helena Ave, Helena, Montana 59604-
7 4009. While so advising Mr. Phillips, you should make clear
8 whether you demand a hearing, or whether you waive formal
9 proceedings and, if so, what informal proceedings you prefer for
10 handling this case. Pursuant to section 2-4-603(2), Mont. Code
11 Ann., you may not request to proceed informally if the action
12 could result in suspension, revocation or any other adverse
13 action against a professional license.

14 Should you request a hearing, you have the right to be
15 accompanied, represented, and advised by counsel. If the counsel
16 you choose has not been admitted to practice law in the state of
17 Montana, he or she must comply with the requirements of
18 Application of American Smelting and Refining Co., (1973), 164
19 Mont. 139, 520 P.2d 103.


20 CONTACT WITH INSURANCE COMMISSIONER'S OFFICE

21 If you have questions or wish to discuss this matter, please
22 contact Kevin Phillips, legal counsel for the State Auditor, 840
23 Helena Ave, Helena, MT, 59604-4009, (406)444-3496 or, within
24 Montana, (800)332-6148. If you are represented by an attorney,
25 please make any contacts with this office through your attorney.

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DATED this 29 day of September, 2001.

By: 
Kevin F. Phillips
Insurance Attorney

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State Auditor's Office